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7 UNITED STATES DISTRICT COURT
8 DISTRICT OF NEVADA
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10 THOMAS J. BALBONI, JR.,)

11 Petitioner,)

12 vs.)

13 RENEE BAKER, *et al.*,)

14 Respondents.)
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3:11-cv-00457-RCJ-VPC

ORDER

16 This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254,
17 by a Nevada state prisoner.

18 On November 30, 2011, respondents filed a motion to dismiss the petition. (ECF No. 11).
19 Concurrent with the filing of the motion to dismiss, respondents filed a motion for leave to file
20 certain exhibits under seal. (ECF No. 17). Respondents seek to file under seal petitioner's
21 competency evaluations (Exhibits 19, 87A, and 87B), a presentence report and an amended
22 presentence report containing confidential information regarding petitioner (Exhibits 87C and 87D),
23 police reports which include identifying information of the minor victim and a juvenile suspect
24 (Exhibits 87E and 87F), and a confidential petition for an involuntary civil commitment (Exhibit
25 87G). Respondents have filed these exhibits under seal for *in camera* review. (ECF No. 19).
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1 There is a strong presumption in favor of public access to judicial filings and documents. *See*
2 *Nixon v. Warner Communication, Inc.*, 435 U.S. 589, 597 (1978); *see also Kamakana v. City and*
3 *County of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006); *Foltz v. State Farm Mut. Auto Ins. Co.*,
4 331 F.3d 1122, 1134 (9th Cir. 2003). The court has inherent power over its own records and files,
5 and access may be denied where the court determines that the documents may be used for improper
6 purposes.” *Nixon v. Warner Comm., Inc.*, 435 U.S. at 598; *Hagestad v. Tragesser*, 49 F.3d 1430,
7 1433-34 (9th Cir. 1995); *Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1179 (9th Cir.
8 2006).

9 The Ninth Circuit distinguishes between dispositive and nondispositive pleadings and
10 motions in terms of the showing required to seal a document. For a document filed with a
11 dispositive motion, “compelling reasons” must be shown to justify sealing the document. *Kamakana*
12 *v. City and County of Honolulu*, 447 F.3d at 1179-89. In contrast, for documents filed with non-
13 dispositive motions, a “good cause” showing will suffice to keep the records sealed. *Id.* This is
14 based on the reasoning that the public has less need for access to records that are merely tangentially
15 related to the underlying cause of action. *Id.* at 1179. A showing of good cause generally requires a
16 specific description of the particular document(s) sought to be sealed and a showing that disclosure
17 of such documents would work a “clearly defined and serious injury.” *Pansy v. Borough of*
18 *Stroudsburg*, 23 F.3d 772, 776 (3rd Cir. 1994). Where good cause is shown for a protective order, the
19 court must balance the potential harm to the moving party’s interests against the public’s right to
20 access the court files. *Kamakana v. City and County of Honolulu*, 447 F.3d at 1179-89.

21 The exhibits filed under seal in this case were submitted in support of respondents’
22 motion to dismiss. (ECF No. 11). The motion to dismiss is a dispositive motion and therefore
23 respondents must show “compelling reasons” to keep the document sealed. *Kamakana v. City and*
24 *County of Honolulu*, 447 F.3d at 1179-89. In the instant case, the exhibits filed under seal contain
25 confidential information concerning petitioner and others, as defined under NRS 176.156, NRS
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1 178.5691, and the Administrative Regulations of the Nevada Department of Corrections. On
2 balance, the potential harm to both respondents' and petitioner's interests outweighs the public's
3 right to access the sealed documents. Respondents have made an adequate showing of compelling
4 reasons to keep the requested exhibits sealed. Accordingly, the Court grants respondents' motion.
5 All exhibits submitted for *in camera* review at ECF No. 19, shall remain sealed.

6 **IT IS THEREFORE ORDERED** that respondents' motion to seal Exhibits
7 (ECF No. 11) is **GRANTED**. The Clerk of Court shall keep the exhibits submitted at ECF No. 19
8 (Exhibits 19, 87A, 87B, 87C, 87D, 87E, 87F, and 87G) under seal.

9 **IT IS FURTHER ORDERED** that petitioner's motion to strike (ECF No. 10) respondents'
10 previously filed motion an extension of time is **DENIED**.

11 Dated this 9th day of December, 2011.

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14 UNITED STATES DISTRICT JUDGE
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